

## FL Assumption Talking Points

6 Components:

1. Governor's letter requesting program Ex. 3.36 Initial Process (IP)
2. Complete Program Description Ex. 3.36 Initial Process (IP)
3. Attorney General's statement Ex. 5 Deliberative Process (DP)
4. EPA/FDEP MOA Ex. 5 Deliberative Process (DP)
5. COE/FDEP MOA Ex. 5 Deliberative Process (DP)
6. Copies of State Statutes and Regs administering the program Ex. 5 Deliberative Process (DP)

Breakdown of 120 day review:

EPA has 120 days to review a state's assumption request. **\*\*This includes a requirement for at least a 45-day public comment period after Federal Register notification, and at least one public hearing.\*\***

- EPA receives state's request to assume program
- EPA determines program submission is complete & so notifies state
- EPA provides copies of State's submission to Corps, FWS, & NMFS (HQ & regional)
  - Corps, FWS, & NMFS comments due within 90 days
- EPA initiates consultation with tribes per Executive Order (timeline not specified)
- Notices of complete application: Federal Register, newspapers, interested parties
  - FR Notice triggers 45-day public comment period
  - Public hearing(s) 30+ days after FR Notice publication
  - **\*\*Florida has requested in writing that EPA hold multiple public hearings.\*\***
- EPA reviews & considers comments received.
  - Prepares summary of significant comments, response to such comments
  - Responds individually to comments from Corps, FWS, & NMFS
- If EPA approves, notify state & publish approval in Federal Register

Talking points 404(g) workgroup

- The EPA is undertaking the first comprehensive revision to the existing section 404(g) regulations since 1988.
- This effort aims to modernize these regulations and foster a greater interest by states and tribes in assuming this authority.
- We are currently planning to issue a proposed rule for public comment in Spring 2020 with a final rule in 2021.
- In the fall of 2018 we reached out to our States and Tribes to get their early input to help inform the rulemaking; we asked them to identify areas of the regulations that would benefit from clarity and facilitate their interest in and efforts to assume the program (consistent with Congressional intent).
- Many states have investigated assumption over time but have cited several "barriers" including: program costs, limitations in dedicated federal funding, lack of clarity on program requirements, inability to assume part of the program, and confusion regarding which waters can be assumed and which waters the Corps retains.

For more information, please see: [ HYPERLINK "https://www.epa.gov/cwa404g/current-efforts-regarding-assumption-under-cwa-section-404" \l "out" ]